IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 23RD AUGUST 2007 / 1ST BHADRA 1929

Crl.MC.No. 2706 of 2007()

CC.458/2003 of JUDL.MAGISTRATE OF FIRST CLASS COURT, ALATHUR
OR NO.13/2000 OF FOREST RANGE OFFICE, NELLIAMPATHY.

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PETITIONER: ACCUSED

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1. K.J.CHACKO, S/O.JOSEPH, AGED 52 YEARS,
   PARINJAMPALLY VEEDU, VADAKKENCHERY,
   ALATHUR TALUK.

2. J.THOMAS, S/O.JOSEPH, AGED 55 YEARS,
   PADAGIRI, NELLIAMPATHY, CHITTOOR TALUK.

BY ADV. SRI.JOHNSON P.JOHN
SRI.BABY MATHEW

RESPONDENTS:

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1. STATE OF KERALA,
   REPRESENTED BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA, ERNAKULAM.

2. FOREST RANGE OFFICER,
   NELLIAMPATHY RANGE, PALAKKAD DISTRICT.

BY P.P. SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 23/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2706 of 2007

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Dated this the 23rd day of August, 2007

O R D E R

The petitioners face indictment in a prosecution under the Kerala Forest Act. Cognizance has been taken. The petitioners had appeared before the learned Magistrate. They were enlarged on bail. They did continue to appear before the learned Magistrate till 7.8.2007 On that day, the petitioners could not appear before the learned Magistrate. Though the counsel filed a petition to excuse their absence, that was dismissed and non-bailable warrants have been issued against the petitioners.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. Their absence was not wilful, but was due to reasons beyond their control. The petitioners are willing to appear before the learned Magistrate, but they apprehend that their applications for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. In these circumstances it is prayed that appropriate directions may be issued to the learned Magistrate to release the petitioners on bail on the date of surrender itself.

3. It is certainly for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider their applications for bail to be filed by the petitioners when they surrender before the learned Magistrate, on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

6. This application is accordingly dismissed. I may however hasten to observe that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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